

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MARTREESE SMITH, individually and on)
behalf of all other similarly situated)
individuals,)
) No: _____
Plaintiff,)
)
vs.) Judge: _____
)
ADEBCO, INC., a Tennessee For-Profit)
corporation,)
)
Defendant.) Collective Action

COMPLAINT

Comes the Plaintiff, Martreese Smith, individually, and on behalf of all other similarly situated individuals, pursuant to § 216(b) of the Fair Labor Standards Act (hereinafter “FLSA”), and files this lawsuit against ADEBCO, Inc., and for his cause of action states as follows:

PARTIES

1. Defendant ADEBCO, Inc. (“ADEBCO”) is a Tennessee For-profit corporation. Its principal address is 1896 Clarkrange Monterey Highway, Monterey, Tennessee 38574-5023. Its registered agent for service of process is Debra Young, 1898 Clarkrange Monterey Highway, Monterey, Tennessee 38574-5023.

JURISDICTION AND VENUE

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

3. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) and (c), because a substantial part of the events giving rise to this claim occurred in the Middle District of Tennessee.

FACTUAL ALLEGATIONS

4. At all times material to this action, ADEBCO was an enterprise engaged in commerce or in the production of goods for commerce as defined by Section 203(s)(1) of the FLSA, and had annual gross volume of sales which exceeded \$500,000.00.

5. ADEBCO specializes in heavy civil construction projects and related material supply and transportation.

6. Plaintiff was employed by ADEBCO within the last three years before the filing of this lawsuit.

7. While Plaintiff worked for ADEBCO, ADEBCO was an “employer” of Plaintiff as defined by Section 203(d) of the FLSA.

8. While Plaintiff worked for ADEBCO, Plaintiff was an “employee” of ADEBCO as defined by Section 203(e)(1) of the FLSA, and worked ADEBCO within the territory of the United States within three years preceding the filing of this lawsuit.

9. The overtime provisions of the FLSA set forth in Section 207 applies to ADEBCO.

10. Plaintiff worked for ADEBCO as a driver operating a dump truck in Davidson County, Tennessee.

11. Plaintiff is an hourly employee who is entitled to overtime wages at a rate of one and one-half times his regular rate of pay for all hours worked over 40 in a given workweek, pursuant to Section 207 of the FLSA.

12. While Plaintiff was employed by ADEBCO, Plaintiff regularly worked more than 40 hours per work week during certain work weeks, but was not paid overtime wages at a rate of one and one-half times his regular rate of pay for all hours worked over 40 in some workweeks as required by Section 207 of the FLSA.

13. Defendant’s violations of Section 207 of the FLSA were willful.

14. Defendant's violations of Section 207 of the FLSA were not in good faith.

Count I
Violation of the Fair Labor Standards Act
Overtime Wage Violation

15. As a result of Defendants' failure to comply with Section 207 of the FLSA, Defendant is liable to Plaintiff for overtime back pay.

16. In addition to the amount of unpaid overtime wages owed to Plaintiff, Plaintiff is also entitled to recover an equal amount of liquidated damages pursuant to 29 U.S.C. Section 216(b).

17. Plaintiff is entitled to an award of attorney's fees pursuant to 29 U.S.C. § 216(b).

Collective Action Allegations

18. Plaintiff is aware of other similarly situated individuals who have worked for the Defendant within the last three years and who have been improperly compensated in violation of the FLSA and who would benefit from the issuance of court-supervised notice of the present lawsuit and the opportunity to join the lawsuit by filing a consent with the Court pursuant to Section 216(b) of the FLSA. Specifically, Plaintiff is aware of other current and former hourly employees of Defendants who worked as drivers and who were subjected to the same policies, and who were not paid one and one-half times their regular hourly rate for all hours worked over 40 in a workweek.

19. Pursuant to Section 216(b), attached hereto and filed with this Complaint as Exhibit A is a Consent to Become Party Plaintiff.

WHEREFORE, Plaintiff, pursuant to Section 216(b) of the FLSA, prays for the following relief:

a. Issue notice to all similarly situated individuals who worked more than 40 hours in a workweek as caregivers for Defendants within the last three years informing them of their right

to file consents to join;

- b. Award Plaintiff and all similarly situated individuals damages in the amount of their respective unpaid overtime compensation, plus an equal amount of liquidated damages pursuant to 29 U.S.C. § 216(b);
- c. Award Plaintiff and all similarly situated individuals pre-judgment and post-judgment interest pursuant to 29 U.S.C. § 216(b);
- d. An award of reasonable attorney's fees;
- e. An award of the costs and expenses of this action; and
- f. Such other, further general legal and equitable relief to which Plaintiff may be entitled.

Respectfully submitted,

/s/ Randall W. Burton
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